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Erosion solution quest becomes more involved

Old lawsuit filed by Suarez family may be key in solution

BY JOYCE RUSSELL Times Staff Writer

OGDEN DUNES -- The town's quest to find a solution to its lakefront erosion problem became more curious Monday night.

At previous meetings, Town Council members hinted they might be ready to set a deadline on an anonymous donor's offer to contribute \$5 million in sand for beach nourishment as an initial solution to solve the town's erosion problems.

However, Town Attorney Jeff Gunning, advised the council to take no action on rescinding a letter of agreement signed in June by the donor and the town.

"For the next 30 days, maintaining the status quo is the best option because all these matters are interrelated," Gunning said.

The interrelated matters apparently have to do with the resurrecting of a 1996 lawsuit filed against the state and others by Ogden Dunes residents William and Barbara Suarez, seeking relief for the erosion problems and costs they have suffered. The town was eventually named as a third party defendant in that lawsuit.

That suit was filed about the same time the town and 135 residents agreed to sue the federal government and other entities over the beach erosion issue. The town's lawsuit was eventually dropped in favor of negotiating a settlement with the state and federal governments.

However, those negotiations never came to fruition. In June the council publicly announced a deal with the anonymous donor. His condition for giving the \$5 million was to drop negotiations. However, the money has never come through.

During this time, Gunning said, the Suarez lawsuit



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During this time, Gunning said, the Suarez lawsuit lay dormant. That was until September when attorneys for Bethlehem Steel Corp., which is also being sued by the Suarez's asked the court to dismiss the lawsuit.

That activity resurrected interest in the lawsuit. Bethlehem's motion is most likely scheduled for a hearing in December.

Gunning wouldn't give the public attending the meeting any clearer definition of why the recent turn of events was so important to the town. He did give council members a multi-page handout of the history and implications of the recent action.

He also admonished town officials to keep mum about its contents or about revealing who the anonymous donor might be.

He told the council members to "learn to make no comment in matters that may be client attorney privilege or on matters confidential to the town."

He also avoided being more specific about how the deal with the donor may be somehow related or important to the developments in the Suarez lawsuit.

Gunning said he has also consulted with New York-based attorney John O'Connell, who was hired as a special counsel by the town, who agreed with the option.

"This allows the donor project to go forward if that is what is going to happen," said Gunning, adding it also doesn't put the town in any jeopardy if council members do decide to rescind the letter of agreement with the donor next month.

Brenda Coffield, a member of the town's Donor Project Committee, reported to the council that the "donor still expresses good intentions to perform" in the way of making the \$5 million a reality. However, she added, the donor "understands the town's position" if it decides to rescind the agreement in December.

Coffield said she doesn't know the status of the \$5 million that supposedly comes from a charitable trust through an off-shore account. The donor, alleged to be a town resident, is supposedly acting as a conduit between that trust and the town.

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